

(1) First and Final Account and Report of Administrator of Insolvent Estate and (2)  
Petition for Allowance of Ordinary and Extraordinary Commission and Fees

<b>DOD: 9-20-01</b>		<b>PUBLIC ADMINISTRATOR</b> is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <b>1. Need proof of service of Notice of Hearing with a copy of the petition at least 15 days prior to the hearing pursuant to Request for Special Notice filed 1-25-08 and Probate Code §1252 on counsel for heir Irene Schollianos, which at that time was David A. Yengoyan, of Quinlan, Kershaw &amp; Fanucchi.</b>  <i><b>Note: Examiner is not aware whether Mr. Yengoyan continues to represent Ms. Schollianos, or whether she is represented by the firm (Attorney Fanucchi).</b></i>  <b>Regardless, notice is required pursuant to Probate Code §1252.</b>
		Account period: 11-2-07 through 7-11-13	
		Accounting: \$65,000.00	
		Beginning POH: \$52,500.00	
		Ending POH: \$18,709.41 cash	
	<b>Aff.Sub.Wit.</b>		
✓	<b>Verified</b>		
✓	<b>Inventory</b>	Public Administrator (Statutory): \$2,600.00	
✓	<b>PTC</b>		
✓	<b>Not.Cred.</b>	Public Administrator (Extraordinary): \$1,000.00 (for sale of real property)	
✓	<b>Notice of Hrg</b>		
✓	<b>Aff.Mail</b>	Attorney (Statutory): \$2,600.00	
	<b>Aff.Pub.</b>		
	<b>Sp.Ntc.</b>	Bond fee: \$162.50 (ok)	
	<b>Pers.Serv.</b>	Costs: \$528.00 (filing, certified letters)	
	<b>Conf. Screen</b>		
✓	<b>Letters</b>	Petitioner requests authority to partially reimburse Edward Aranda for funeral costs of \$5,037.85 and \$14,426.50 for mortgage payments made during estate administration for a total of \$19,464.35.	
	<b>Duties/Supp</b>		
	<b>Objections</b>		
	<b>Video Receipt</b>	Petitioner states that after payment of commissions, fees and costs, there is \$11,818.91 for distribution. The claims of Edward Aranda for funeral service sand mortgage payments total more than that, so Petitioner requests payment of the remaining cash to him.	
	<b>CI Report</b>		
✓	<b>9202</b>		
✓	<b>Order</b>		
	<b>Aff. Posting</b>		
	<b>Status Rpt</b>		
	<b>UCCJEA</b>		
	<b>Citation</b>		
✓	<b>FTB Notice</b>		
			<b>Reviewed by:</b> skc
			<b>Reviewed on:</b> 9-6-13
			<b>Updates:</b>
			<b>Recommendation:</b>
			<b>File 1 - Alcaraz</b>

Atty Kruthers, Heather H., of County Counsel's Office (for Petitioner Public Guardian)

## Second and Final Account and Report of Conservator

<b>DOD: 5/25/2013</b>		<b>PUBLIC GUARDIAN</b> , Conservator, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
		<b>Account period: 1/1/2012 – 5/25/2013</b>	
		Accounting - <b>\$24,713.00</b>	
		Beginning POH - <b>\$ 537.86</b>	
		Ending POH - <b>\$ 143.70</b>	
<b>Cont. from</b>			
	<b>Aff.Sub.Wit.</b>		
✓	<b>Verified</b>		
	<b>Inventory</b>		
	<b>PTC</b>		
	<b>Not.Cred.</b>		
✓	<b>Notice of Hrg</b>		
✓	<b>Aff.Mail</b>	W/O	
	<b>Aff.Pub.</b>		
	<b>Sp.Ntc.</b>		
	<b>Pers.Serv.</b>		
	<b>Conf. Screen</b>		
	<b>Letters</b>		
	<b>Duties/Supp</b>		
	<b>Objections</b>		
	<b>Video Receipt</b>		
	<b>CI Report</b>		
	<b>9202</b>		
✓	<b>Order</b>		
	<b>Aff. Posting</b>		
	<b>Status Rpt</b>		
	<b>UCCJEA</b>		
	<b>Citation</b>		
	<b>FTB Notice</b>		
		<b>Subsequent Account period: 5/26/2013 – 7/22/2013</b>	
		Accounting - <b>\$1,818.96</b>	
		Beginning POH - <b>\$ 143.70</b>	
		Ending POH - <b>\$1,783.96 (cash)</b>	
		Conservator - <b>\$1,002.96</b>	
		(4.51 Deputy hours @ \$96/hr and 7.50 Staff hours @ \$76/hr)	
		Attorney - <b>\$1,875.00</b>	
		(per Local Rule; \$1,250.00/year for 1 ½ years)	
		Bond fee - <b>\$25.00 (OK)</b>	
		(minimum fee for estate of \$10,000 or less)	
		<b>Petitioner prays for an Order:</b>	
		1. Approving, allowing and settling the Second and Final Account;	
		2. Authorizing the conservator and attorney fees and commissions;	
		3. Authorizing payment of the bond fee; and	
		4. Authorizing petitioner to impose a lien on the estate for any unpaid balances of authorized fees and commissions.	
			<b>Reviewed by:</b> LEG
			<b>Reviewed on:</b> 9/9/13
			<b>Updates:</b>
			<b>Recommendation:</b>
			<b>File 2 – Geringer-Veach</b>

## Petition for Attorney's Fees and Costs

			<p><b>PATRICIA BONE O'NEILL</b> is Petitioner.</p> <p>Petitioner is the attorney for Timothy Moore, Conservator of the Person of Bernice Dunn.</p> <p>Petitioner requests fees and costs in connection with legal services provided from 11-1-12 through 2-28-13 in good faith and in the best interests of the Conservatee pursuant to Probate Code §2642.</p> <p>Services include appearance at hearing, preparation of amended petition, research, review of documents, preparation of documents (6.35 hours @ \$200/hr for a total of \$1,270.00).</p> <p>Petitioner also requests reimbursement of the \$435.00 filing fee for this petition.</p> <p>Total: \$1,705.00</p> <p>Petitioner states she does not have current knowledge of the value of the conservatorship estate; however, she is informed and believes that the value exceeds \$250,000.00.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Note: Attorney Nancy LeVan is court-appointed attorney for Conservatee Bernice Dunn.</b></p> <p><b>Note: Public Guardian is Conservator of the Estate.</b></p>
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail	W		
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
	Letters			
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			
			<p><b>Reviewed by:</b> skc</p> <p><b>Reviewed on:</b> 9-9-13</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 3 - Dunn</b></p>	

(1) First and Final Report of Status of Administration on Waiver of Account and (2) Petition for Determination of Entitlement to Estate Distribution, (3) Compensation to Attorney for Ordinary and Extraordinary Services, Compensation to Executor for Ordinary and Extraordinary Services, (4) Reimbursement of Costs, and (5) Final Distribution (Prob. C. 10954, 11700, 10810, 10811)

<b>DOD: 12-16-08</b>			<b>JUDITH ELIA</b> , Executor with Full IAEA without bond, is Petitioner.  <b>Accounting is waived.</b>  <b>Corrected I&amp;A: \$494,423.39</b> (Values confirmed by Probate Referee) <b>POH: \$131,281.57</b>  <b>Executor (Statutory): \$12,348.47</b>  <b>Executor (Extraordinary): \$1,000.00</b> (for sale of real property, per local rule)  <b>Executor (Reimbursement for expenses advanced re conservatorship): \$5,295.00</b>  <b>Attorney (Statutory): \$12,348.47</b>  <b>Attorney (Extraordinary): \$2,700.00</b> (for services in connection with the sale of the real property, discounted from \$4,488.00 time spent per declaration)  <b>Attorney (Conservatorship): \$7,088.50</b> (for post-petition services associated with the conservatorship (\$15,645.50 was previously authorized.)  <b>Costs: \$726.00</b> (reimburse to Executor for filing, appraisal, fees associated with the sale of the real property)  <b>Closing: \$3,000.00</b>  <b>Distribution pursuant to Decedent's will and with reference to preliminary distributions previously made:</b> Missionary Gospel Fellowship: \$49,442.34 Timothy Paul Kantor: \$0.00 David Albert Kantor: \$5,000.00 Harriet Elizabeth Long: \$5,000.37 Judith Ann Elia: \$4,979.38	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <u>Minute Order 7-31-13:</u> Matter continued to 9/11/13. Counsel is advised that the Court will render a ruling on the issue before it by 9/11/13 Continued to: 9/11/13.
Cont. from 050113, 060513, 061913, 073113				
	Aff.Sub.Wit.			
✓	Verified			
✓	Inventory	X		
✓	PTC			
✓	Not.Cred.			
N/A	Notice of Hrg			
	Aff.Mail			
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
	Conf. Screen			
✓	Letters	2-15-11		
	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
✓	9202	X		
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
✓	FTB Notice			

<b>Reviewed by:</b> skc
<b>Reviewed on:</b> 9-6-13
<b>Updates:</b>
<b>Recommendation:</b>
<b>File 4 - Kantor</b>

(1) First and Final Account and Report of Status of Administration of Executor and  
 (2) Petition for Settlement Thereof, for (3) Allowance of Statutory Attorney's Fees  
 and Executor's Compensation, for Costs Reimbursement and for (4) Final  
 Distribution

<b>DOD: 5/12/2011</b>		<b>KENNETH OWEN CROSBY</b> , Executor, is petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  1. Disbursement schedule shows disbursements for: <ul style="list-style-type: none"> <li>Barbara Ellison- reimbursement for travel expenses for family member in the sum of \$168.45;</li> <li>Ronda Crosby-reimbursement of travel expenses for family member in the sum of \$915.99.</li> </ul> Need authority that allows reimbursement of family members travel from the decedent's estate.  2. Disbursement schedule includes a disbursement for BJ Country Kitchens meals in the sum of \$92.36. Need authority that allows meals to be paid from the decedent's estate.
		Account period: 5/12/11 – 5/10/13	
<b>Cont. from</b>		Accounting - <b>\$481,676.58</b>	
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>	Beginning POH - <b>\$403,451.31</b>	
<input checked="" type="checkbox"/>	<b>Verified</b>	Ending POH - <b>\$446,141.60</b>	
<input checked="" type="checkbox"/>	<b>Inventory</b>	Executor (statutory) - <b>\$12,633.00</b>	
<input checked="" type="checkbox"/>	<b>PTC</b>	Attorney - <b>\$12,633.00</b>	
<input checked="" type="checkbox"/>	<b>Not.Cred.</b>	Costs - <b>\$1,285.00</b>	
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>	(filing fees, prob. referee, publication, certified copies)	
<input type="checkbox"/>	<b>Aff.Mail</b>	Closing - <b>\$1,500.00</b>	
<input type="checkbox"/>	<b>Aff.Pub.</b>	Distribution, pursuant to Decedent's Will, is to:	
<input type="checkbox"/>	<b>Sp.Ntc.</b>	Kenneth Owen Crosby - <b>\$25,000.00</b>	
<input type="checkbox"/>	<b>Pers.Serv.</b>	Catherine Ann Crosby - <b>\$25,000.00</b>	
<input type="checkbox"/>	<b>Conf. Screen</b>	Barbara Jean Ellison - <b>\$25,000.00</b>	
<input checked="" type="checkbox"/>	<b>Letters</b> 11/16/11	Terry Thomas Crosby - <b>\$25,000.00</b>	
<input type="checkbox"/>	<b>Duties/Supp</b>	California State University Fresno Foundation - <b>\$338,390.60</b>	
<input type="checkbox"/>	<b>Objections</b>		
<input type="checkbox"/>	<b>Video Receipt</b>		
<input type="checkbox"/>	<b>CI Report</b>		
<input checked="" type="checkbox"/>	<b>9202</b>		
<input checked="" type="checkbox"/>	<b>Order</b>		
<input type="checkbox"/>	<b>Aff. Posting</b>		
<input type="checkbox"/>	<b>Status Rpt</b>		
<input type="checkbox"/>	<b>UCCJEA</b>		
<input type="checkbox"/>	<b>Citation</b>		
<input checked="" type="checkbox"/>	<b>FTB Notice</b>		
			<b>Reviewed by: KT</b>
			<b>Reviewed on: 9/9/2013</b>
			<b>Updates:</b>
			<b>Recommendation:</b>
			<b>File 5 - Oak</b>

Atty Matlak, Steven M. (for Mary Furuya – Executor – Petitioner)

(1) Waiver of First and Final Account and Report of Executor and Petition for Settlement Thereof; and (2) for Allowance of Executor's Compensation for Ordinary Services and (3) for Allowance of Attorney's Fees for Ordinary and Extraordinary Services and Costs and (4) for Final Distribution

<b>DOD: 12-1-11</b>		<p><b>MARY FURUYA</b>, Sister and Executor with Full IAEA without bond, is Petitioner.</p> <p>Accounting is waived.</p> <p>I&amp;A: \$165,772.01 POH: \$165,520.64 (\$520.64 cash plus real property)</p> <p>Executor (Statutory): \$5,973.16</p> <p>Attorney (Statutory): \$5,973.16</p> <p>Attorney (Extraordinary): \$649.00 (for .8 attorney hours and 3.7 paralegal hours in connection with the agreement among heirs)</p> <p>Costs: \$1,280.00 (filing, publication)</p> <p>Due to the insufficiency of cash in the estate, Petitioner assumes liability for payment of all statutory commissions, extraordinary fees, and costs ordered, and all additional costs, in connection with this probate proceeding, subject to repayment from the Testamentary Trust. See Agreement filed 1-9-13.</p> <p>Executor has also agreed to pay the creditor's claims filed in this proceeding subject to repayment from the trust. See Agreement filed 11-13-12.</p> <p><b>Distribution pursuant to Decedent's will:</b></p> <p>Mary Furuya, Trustee of the Kaz Kobata Testamentary Trust: \$520.64 cash plus real property</p>	<b>NEEDS/PROBLEMS/COMMENTS:</b>	
	<b>Aff.Sub.Wit.</b>			
✓	<b>Verified</b>			
✓	<b>Inventory</b>			
✓	<b>PTC</b>			
✓	<b>Not.Cred.</b>			
✓	<b>Notice of Hrg</b>			
✓	<b>Aff.Mail</b>			W
	<b>Aff.Pub.</b>			
	<b>Sp.Ntc.</b>			
	<b>Pers.Serv.</b>			
	<b>Conf. Screen</b>			
✓	<b>Letters</b>			
	<b>Duties/Supp</b>			
	<b>Objections</b>			
	<b>Video Receipt</b>			
	<b>CI Report</b>			
✓	<b>9202</b>			
✓	<b>Order</b>			
	<b>Aff. Posting</b>			
	<b>Status Rpt</b>			
	<b>UCCJEA</b>			
	<b>Citation</b>			
✓	<b>FTB Notice</b>			
		<p><b>Reviewed by:</b> skc</p> <p><b>Reviewed on:</b> 9-9-13</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 6 - Kobata</b></p>		

## Amended Petition for Probate of Will and for Letters Testamentary

<b>DOD: 3-2-13</b>		<b>DIANE ESPARZA</b> , Daughter and Named Alternate Executor without bond, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <b>Continued from 8-21-13</b>  <b>Minute Order 8-21-13:</b> The Court appoints Diane Esparza as special administrator with limited powers for the limited purpose of obtaining information regarding the accounts. Letters of special administrator to expire 9-11-13. Continued to 9-11-13.  <b>Note:</b> The decedent's will dated 2-12-98 devises the entire estate to the Ray P. and Virgie Esparza Trust dated 11-1-96. Petitioner Diane Esparza is the named alternate executor of the will and is also the successor trustee of the trust.  <b>As of 9-6-13, nothing further has been filed. The following issues remain for both Petitioner and Objector:</b>  <b>SEE ADDITIONAL PAGES</b>
		Full IAEA – ok	
		Will dated 2-12-98	<b>Reviewed by:</b> skc <b>Reviewed on:</b> 8-19-13 <b>Updates:</b> <b>Recommendation:</b> <b>File 7 – Esparza</b>
<b>Cont From 082113</b>		Residence: Fresno	
	<b>Aff.Sub.Wit.</b>	Publication: Fresno Business Journal	
✓	<b>Verified</b>	Estimated Value of Estate:	
	<b>Inventory</b>	Annual income: \$80,000.00	
	<b>PTC</b>	Real property: \$80,000.00	
	<b>Not.Cred.</b>	Total: \$80,000.00	
✓	<b>Notice of Hrg</b>	Probate Referee: Steven Diebert	
✓	<b>Aff.Mail</b>	<b>Objection filed 6-18-13 by Ray A. Esparza</b> , son, states he believes there is a more recent will. Objector had filed a petition for probate in 13CEPR00289, but dismissed his petition when a will was discovered. Petitioner has not allowed him to look through the decedent's papers. Petitioner obtained a dumpster and threw away a dumpster full of the decedent's papers and belongings. Objector is trying to find out who prepared the decedent's will and trust to determine if there is a more recent will.  Objector does not believe Petitioner should be the executor, as she has been dishonest with him and has taken assets of the estate. Objector states Petitioner withdrew \$21,000.00 from the decedent's EECU account and deposited a check for \$9,950.00 received from AAA and a \$6,066.45 check into her account. These monies should be part of the estate. See attached copies. Objector believes there are other assets that Petitioner has taken. She is hiding documents and has destroyed or disposed of a dumpster full of documents. Objector is informed and believes that Petitioner has used the decedent's credit cards and gas cards. Objector objects to Petitioner's appointment as executor and requests that the Public Guardian be appointed.  <b>Petitioner filed a declaration in response:</b> Petitioner states she did deposit some of her mother's money into her accounts, but only as a temporary measure for safekeeping. At the instruction of her attorney, Petitioner has deposited the funds noted above into his law firm's client trust account until she is appointed as Executor and can open an estate account. Petitioner was informed that her brother (Objector) removed \$1,742.81, \$250, and \$125 from three accounts. Petitioner was concerned he would remove other funds, so she protected them.	
✓	<b>Aff.Pub.</b>		
	<b>Sp.Ntc.</b>		
	<b>Pers.Serv.</b>		
	<b>Conf. Screen</b>		
✓	<b>Letters</b>		
✓	<b>Duties/Supp</b>		
✓	<b>Objections</b>		
	<b>Video Receipt</b>		
	<b>CI Report</b>		
	<b>9202</b>		
✓	<b>Order</b>		
	<b>Aff. Posting</b>		
	<b>Status Rpt</b>		
	<b>UCCJEA</b>		
	<b>Citation</b>		
	<b>FTB Notice</b>		

Page 2

**Petitioner:**

1. The witnesses of the will did not date their signatures. The Court may require proof of subscribing witness pursuant to Probate Code §8220.
2. The Court may require clarification regarding the estimated value of the estate.
3. Letters are not signed.

**Objector:**

1. Objector requests appointment of the Public Administrator; however, there is no proof of service of objection or notice of hearing served on the Public Administrator or County Counsel.

**Note:** If the petition is granted, status hearings will be set as follows:

- **Friday, October 11, 2013** at 9:00 a.m. in Department 303, for the filing of the bond.
- **Friday, February 14, 2014** at 9:00 a.m. in Department 303, for the filing of the inventory and appraisal.
- **Friday, November 14, 2014** at 9:00 a.m. in Department 303, for the filing of the first account or petition for final distribution.

Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior the date set the status hearing will come off calendar and no appearance will be required.

**Dept. 303, 9:00 a.m. Wednesday, September 11, 2013**



Atty Garzon-Ayvazian, Hilda (Petitioner – Attorney of Alhambra, California)

Atty Motsenbocker, Gary (for Objector Robert B. Fleming)

## Petition for Probate of Will and for Letters Testamentary; Authorization to Administer Under IAEA (Prob. C. 8002, 10450)

<b>DOD: 11/24/2011</b>		<b>HILDA GARZON-AYVAZIAN</b> , petitioner requests appointment as Administrator with will annexed without bond.  Sole heir waives bond.  Named executor declines to act.  Full IAEA – o.k.  Will dated: 06/16/2011  Residence: Arizona / Mexico Publication: Fresno Bee  <u><b>Estimated value of the Estate:</b></u> Personal property      \$33,190.00 Real property      \$647,570.00 <b>Total:                      \$680,760.20</b>  Probate Referee: Rick Smith  Please see additional page for Objections of Robert B. Fleming.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <b>Note: A Petition for Ancillary Administration was filed by Attorney Gary L. Motsenbocker on 09/06/2013 and the hearing is set for 10/15/2013.</b>  <b>Attorneys have been provided the Tentative Ruling.</b>  <b>Note: If the petition is granted status hearings will be set as follows:</b>  • Friday, 02/07/2014 at 9:00a.m. in Dept. 303 for the filing of the inventory and appraisal <u>and</u>  • Friday, 11/14/2014 at 9:00a.m. in Dept. 303 for the filing of the first account and final distribution.	
<b>Cont. from 062413, 073013</b>				
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>			<input type="checkbox"/>
<input checked="" type="checkbox"/>	<b>Verified</b>			<input type="checkbox"/>
<input type="checkbox"/>	<b>Inventory</b>			<input type="checkbox"/>
<input type="checkbox"/>	<b>PTC</b>			<input type="checkbox"/>
<input type="checkbox"/>	<b>Not.Cred.</b>			<input type="checkbox"/>
<input checked="" type="checkbox"/>	<b>Notice of Hrg</b>			<input type="checkbox"/>
<input checked="" type="checkbox"/>	<b>Aff.Mail</b>			w/
<input checked="" type="checkbox"/>	<b>Aff.Pub.</b>			<input type="checkbox"/>
<input type="checkbox"/>	<b>Sp.Ntc.</b>			<input type="checkbox"/>
<input type="checkbox"/>	<b>Pers.Serv.</b>			<input type="checkbox"/>
<input type="checkbox"/>	<b>Conf. Screen</b>			<input type="checkbox"/>
<input checked="" type="checkbox"/>	<b>Letters</b>			<input type="checkbox"/>
<input checked="" type="checkbox"/>	<b>Duties/Supp</b>			<input type="checkbox"/>
<input type="checkbox"/>	<b>Objections</b>			<input type="checkbox"/>
<input type="checkbox"/>	<b>Video Receipt</b>			<input type="checkbox"/>
<input type="checkbox"/>	<b>CI Report</b>			<input type="checkbox"/>
<input type="checkbox"/>	<b>9202</b>			<input type="checkbox"/>
<input checked="" type="checkbox"/>	<b>Order</b>			<input type="checkbox"/>
<input type="checkbox"/>	<b>Aff. Posting</b>	<input type="checkbox"/>		
<input type="checkbox"/>	<b>Status Rpt</b>	<input type="checkbox"/>		
<input type="checkbox"/>	<b>UCCJEA</b>	<input type="checkbox"/>		
<input type="checkbox"/>	<b>Citation</b>	<input type="checkbox"/>		
<input type="checkbox"/>	<b>FTB Notice</b>	<input type="checkbox"/>		

<b>Reviewed by:</b> LV
<b>Reviewed on:</b> 09/10/2013
<b>Updates:</b>
<b>Recommendation:</b>
<b>File 8 – Fansler</b>

**Objections to Petition for Probate filed by Robert B. Fleming on 6/20/13.** Objector states he is the duly appointed Special Administrator of the Estate of Robert Warren Fansler, deceased, which is pending in the Superior Court of the State of Arizona, County of Santa Cruz, case no. PB 12-001. Objector states he was appointed by the Arizona court to act as Special Administrator upon the determination by the Court that the appointment of a special administrator was needful and necessary due to the conflict and disputed claims among the parties.

Objector states he was appointed by the Court to act as the interim special administrator to hold and preserve the estate assets and to do whatever was needful and necessary to protect the assets of the estate during the pendency of the proceedings before the court; those matters included, among other things, the validity of the decedent's alleged "Mexican" will that was submitted in this matter. As of this time the proceedings in the Arizona court are in process and as of yet the issues before the court have not been fully adjudicated and/or resolved by the court.

There are a number of issues presently being litigated between Ms. Garzon-Ayvazian's client, Ramona Rios Rodriguez, the alleged wife of the Decedent; the child of the Decedent, Donna Jean Broussard, and the partner/significant other of the Decedent, Geraldine Guthrie. Without going into all the sordid details of the contested proceedings, a brief synopsis of the issues that are currently pending before the Arizona court is offered. Initially Geraldine Guthrie, described as the partner and or/significant other of the decedent was appointed personal representative of the decedent's estate; sometime thereafter her appointment was objected to by the decedent's alleged "Mexican" wife (Rodriguez) and an objection/claim of right was filed by the decedent's daughter (Broussard). The "wife" contends that she is the rightful heir under the decedent's alleged last will and testament, which was written in Spanish and authored in Mexico and any rights that she may have independently under the law as "surviving spouse" of the decedent. The daughter claims an interest in the estate as a lineal heir of the decedent.

The principal issues of the contest are the validity and effect of the decedent's Mexican "will." If the will is found to be valid, there are additional issues that were raised as to what the decedent actually intended when he wrote the alleged will, as well as, issues regarding the interpretation of the instrument. There is also an issue in regard to the authenticity and validity of the decedent's "Mexican" marriage.

During the course of the proceedings in Arizona, Ms. Garzon-Ayvazian, Esq. actively participated in the probate hearings and in the ensuing litigation process; and she is/was aware of Mr. Fleming's appointment as Special Administrator and all the court orders entered in that matter. After Mr. Fleming's appointment the parties have been in engaged in pretrial discovery and related proceedings in preparation and anticipation of trial on the issues. Mr. Fleming states he is not an active participant in the litigation of the matter. He was charged by the court to administer the estate until such time as the issues are resolved and/or on such other considerations that the court may determine to be in the best interest of the estate.

Presently the decedent's estate owns no real property in the State of California; at the time of his death he held three promissory notes secured by deeds of trust, which are being administered in his estates. The potential possessory rights as on any of the three properties involved have not accrued into the right of possession; thus the estate holds no "ownership" interest in the three properties other than contingent beneficial interest in the as security for notes.

**Please see additional page**

**Objections to Petition for Probate filed by Robert B. Fleming on 6/20/13 cont.:** It is the opinion of the Objector that the petition filed in this matter by Ms. Garzon-Ayvazian was ill conceived and that she failed to disclose to the court all the pertinent facts and circumstances necessary for the court to take lawful and appropriate jurisdiction over this estate.

**Wherefore**, based on the objections and the facts presented herein, the Objector requests that the Court grant the following relieved and the Court enter and order that:

1. The Petitioner's petition be dismissed with prejudice;
2. The Objector be awarded his attorney's fees and costs; and
3. For all other proper relief the Court deems proper under the circumstances.

**Reply to Objections to Petition for Probate filed by Hilda Garzon-Ayvazian on 07/05/2013.** On or around the year 2000, Robert Fransler, decedent, met Ramona Rios Rodriguez in Mazatlan, Sinaloa, Mexico. At the same time that Ramona met decedent she also met Geraldine May Guthrie who was introduced as decedent's sister. Gerry herself testified at her deposition taken by the Objector, Robert B. Fleming, on 04/03/2013 that she was a business partner and friend of the decedent. She also called decedent her brother. At no time did Gerry testify that she was the significant other of the decedent as stated by Objector.

Decedent and Ramona began dating and when decedent spent his time in Mazatlan, Ramona lived with him at his home on the beach which was named "Sand Castle." When decedent was in Mazatlan, Gerry would also come down with him and she would stay in the Sand Castle and Ramona and decedent would stay in the trailer home that was parked on the property.

In February 2009, decedent and Ramona married in Mazatlan, Sinaloa, Mexico. Gerry was present at the wedding and was one of the witnesses as corroborated by the signature on the marriage certificate. Also at Gerry's deposition, she testified that "Monica" as Gerry calls Ramona was decedent's wife. Contrary to what Objector, who should be neutral since he is the Special Administrator in Arizona, has stated, Ramona **is the wife of decedent, not the alleged wife**. Although Gerry knew that Ramona was the decedent's wife after his death she refused to name her as the surviving spouse on the death certificate, and also failed to give her notice of any of the probate proceedings.

**Objector has no standing to Object** – The question to ask is whether the objector who is Special Administrator in Arizona is an "interested person" within the meaning of Probate Code section 48, and has standing to object to Probate of a Will in Fresno. Probate Code section 48 defines "interested person" as follows:

“(a) Subject to subdivision (b), “interest person” include any of the following:

- (1) An heir, devisee, child, spouse, creditor, beneficiary, and any other person having a property right in or claim against a trust estate or the estate of the decedent which may be affected by the proceeding.
- (2) Any person having priority for appointment as personal representative.
- (3) A fiduciary representing an interested person.

**Please see additional page**

(b) The meaning of "interested person" as it relates to particular purposes of, an matter involved in, any proceedings"

Under the above definitions, Objector as Special Administrator in an Arizona probate does not fall within any of the categories. An interested persona has also been defined as "one who has such a pecuniary interest in the devolution of the testator's estate as may be impaired or defeated by the probate of the will or be benefitted by having it set aside." Estate of O'Brien, 246 Cal.App.2d 788, 792, 55 Cal.Rptr. 343. Although the Special Administrator is deriving fees from the decedent's estate in Arizona that is not the pecuniary interest that case law refers to.

In an early case, the California Supreme Court held that the right of an interested person to contest a will is a fundamentally based upon the loss of property or property rights resulting from the recognition of an invalid instrument depriving him of those rights; that the purpose of a will contest is to establish a violation of the contestant's rights of property; that in its essence the contest is an action for the recovery of property unlawfully taken or about to be taken from the ownership of the contestant. Estate of Baker, 170 Cal. 578, 586-585, 150 P. 989. Although, Objector has not clearly stated that he is contesting the will of decedent of June 2011, his objections to the probate seem to infer that he is in fact objecting to the will on grounds that are not specifically stated.

In California, an Executor who has been named in a will, which has been admitted to probate, has the right to oppose or resist a contest of such will. Estate of Webster, 43 Cal.App.2d 6, 20, 110 P. 2d 81, 11 P.2d 355. In this case the Objector is not an executor named in a will but a Special Administrator. A Public Administrator, however, is not entitled to maintain a contest of a will. In Golden v. Stoddard (1935) 4 Cal.2d 300, 306 quoting Estate of Sanborn, 98 Cal. 106 the California Supreme Court stated: "A public administrator has no interest in an estate, or in the probate of a will; that is a matter which concerns only those to whom the estate would otherwise go." Objector as Special Administrator functions very similar to a Public Administrator. The Objector as Special Administrator has no interest in the estate. It is a concern only of the heirs at law or under a previous will of the decedent. He does not have the right to fight their battles. As such, the Special Administrator's objections should be dismissed because he has no standing to object. Petitioner advised the Special Administrator of this prior to him filing any objections as such his objections were frivolously or negligently filed. He should pay fees and costs to Petition from his own pocket and not from the estate.

**Objector does not have capacity to sue** – "Under common law, a personal representative cannot sue in his or her representative capacity outside the state of appointment. (Vaughan v. Northrup, (1841) 40 U.S. 1, 5-6 [10 L.Ed. 63]) Justice Story of the United States Supreme Court explained the doctrine: 'Every grant of administration is strictly confined in its authority and operation to the limits of the territory of the government which grants it; and does not, de jure, extend to other countries [or estate]. It cannot confer as a matter of right, any authority to collect assets of the deceased in any other state; and whatever operation is allowed to it beyond the original territory of the grant is mere matter of comity, which every nation [or state] is at liberty to yield or to withhold, according to its own policy and pleasure, with reference to its own institutions and the interest of its own citizens' (id. At p.5) Some states have abandoned the common law rule and permit estate representatives appointed by any sister state to commence litigation in their court. (e.g., N.Y. Estates, Powers & Trusts Law §13-3.5 (McKinney 1967). **California is not one of them. California has always followed the common law in holding that 'an executor or administrator, as such, has no power which he can employ extraterritorially.'** (Lewis v. Adams (1886) 70 Cal. 403, 411 [11 P. 833] italics omitted. "Smith v. Climmet, (2011) 199 Cal. Spp.4<sup>th</sup> 1381, 1391. (emphasis added).

**Please see additional page**

Objector by his own admission is objecting to the probate of Decedent's will of June of 2011 in his capacity as Special Administrator appointed by the Court in Nogales, Arizona. Under California law, he has no power outside of the State of Arizona to file any documents in this State in his capacity as Special Administrator.

**California has jurisdiction** – Objector's argument is that the decedent died holding three deeds of trust in California and that does not give California jurisdiction to hear the probate of Decedent's will because the deeds of trust are no rights of possession, and that furthermore a probate proceeding is currently pending in Arizona. In an early case, the California Supreme Court dealt with the issue of probating a will in different states. "Recognition would be given to the indisputable principle that every state has plenary power with respect to administration and disposition of the estates of deceased persons as to all property of such persons found within its jurisdiction. Thus the courts of a state may grant original probate upon wills of deceased non-residents who leave property within the state" Estate of Clark, 148 Cal. 108, 112, 82 P. 760. The decedent died holding three deeds of trust (one in Fresno, two in Calaveras County), two classic mustangs and bank accounts a Bank of America in Los Banos. As such the Decedent had assets within the state and California has jurisdiction to hear the probate.

**Deed of Trust is interest in Real Property** – Objector further asserts that the Deeds of Trust currently held by Decedent have no possessory rights and the estate holds no "ownership" interest in the three properties. Once again, Objector is mistaken as to California Law. Under common law and the majority rule in the United States a mortgage taken as security for a purchase money note is but a chose in action, strictly personally, representing no interest in the land. Adams v. Winne (1838), 7 Paige (N.Y.) 97 101-102. But under California law, "a mortgage is not a mere chose in action." A mortgage creates "an interest in the property to the extent of the attachment lien." Estate of McLaughlin, 97 Cal.App. 485 [275 P. 875]. "Under California law, a mortgage also has a security interest in the nature of an equitable lien." Childs etc. Co. v. Shelburne Realty Co., 23 Cal.2d 263, 268. "A trust deed definitely does represent an interest in the land, for the title is in the trustee for the benefit of the creditor. Bank of Italy v. Bentley, 217 Cal 644, 655 [20 P. 2d940]; Py v. Pleitner, 70 Cal.App.2d 576, 579 [161 P.2d 393]. "Though the trust deed has been analogized to a mortgage, especially between debtor and creditor, whenever necessary to avoid harshness in the application of the rule, it still remains true that **title does not pass to the buyer but rests in the trustee for the primary benefit of the seller. And any rule that rests upon the assumption that the holder of a trust deed note does not have any interest in the land finds no substantial basis in California law.**" Estate of Moore, 135 Cal.App.2d 122, 132. (Emphasis added). Therefore, the three Deeds of Trust that Decedent holds for property here in California do represent an interest in land and as such, California has jurisdiction over the Estate of Decedent for the Deeds of Trust in California.

**Deed of Trust is Debt that has Situs in California** – In California, "(i)t has therefore been widely held that **a debt has its situs at the domicile of the debtor for purposes of administration**, since it may be necessary to sue him there and to have administrator appointed to bring suit. (See 3 Beale, Conflict of Laws [1935], p. 1452; see 23 Minn. L. Rev. 221.) By the same reasoning **a debt will be regarded as an asset wherever the debtor is subject to suit.** (New England Mutual Life Ins. Co. v. Woodworth, 111 U.S. 138 [4 S.Ct. 364, L.Ed. 379]" Estate of Waits, 23 Cal. 2d 676, 680-681 (emphasis added).

**Please see additional page**

Of the three deeds of trust that are held by the Decedent, two of them have been seriously in arrears for more than a year and a half, and it has become necessary to bring suit against the debtors. The Special Administrator is attempting to handle the probate of these Deeds of Trust from his position as Special Administrator in Arizona which is acting outside of his authority according to California law.

The Deeds of Trust are assets of the Estate in California and as such, the Arizona special Administrator should be enjoined from acting any further on any issue dealing with the Deed Trust, including any payments on any Deed of Trust.

Based on the California Probate Code and Case Law, the Objector who is the Special Administrator and an Attorney in Arizona is not an interested party for purposes of objecting to the Petition for Probate filed by the Petitioner. Further, more Objector as an Arizona Special Administrator has no capacity to be involved in this proceeding in California. California has jurisdiction over assets within its borders. The three Deeds of Trust held by the Decedent are considered an interest in the real properties. And, finally, the Situs for the Deeds of Trust, which are debts owed on the real properties is where the Debtors are subject suit. The res are in California and the debtors are subject to suit on the res her in California.

**Petitioner requests that this Court enter an order that:**

- **The Objector has no standing to object to the Petition for Probate.**
- **The Objector has no capacity to object to the Petition for Probate.**
- **California has jurisdiction to hear the Probate Petition.**
- **The three Deeds of Trust are an interest in real property**
- **For purposes of Administration, the situs of the Deeds of Trust is California where the debtors are subject to suit.**
- **The Objector who is the Arizona Special Administrator is enjoined from handling any issues dealing with the three Deeds of Trust, including negotiating with the debtors, re-negotiating any of the Deeds of Trust and collecting any of the payments.**
- **Attorney fees and costs.**

**Memorandum of Points and Authorities in Opposition to the Objections of the Petitioner to the Objections of the Respondent filed by Robert B. Fleming on 07/23/2013.** During the course of the proceedings in the Arizona Superior Court Ms. Garzon-Ayvazian, Esq. has actively participated in the probate hearings and in the ensuing litigation process; and she is/was aware of the appointment of a Special Administrator and all the court orders entered in that matter. After the Objector's appointment the parties, including Ms. Garzon-Ayvazian have engaged in pretrial discovery and related proceedings in preparations and anticipation of a trial on the issues that are pending resolution by the Superior Court of the State of Arizona, Santa Cruz County. The Objector/Respondent is charged by the court to administer the estate until such time as all issues are resolved and or/on such other considerations that the court may determine to be in the best interest of the estate. Presently the decedent's estate holds three promissory notes secured by deeds of trust, which are being administered in the Decedent's estate in Arizona. The decedent's estate holds no "ownership" interest in the three properties other than a contingent beneficial interest in them as security for the notes. It is the opinion of the Objector that the petition filed in this matter by Ms. Garzon-Ayvazian is ill conceived and that she failed to disclose all the pertinent facts and circumstances necessary for a California court to take lawful and appropriate jurisdiction over this matter.

**Please see additional page**

The call of the question on the probate petition is "Does the Decedent own real property in California?" The question in the petition calls for a response as to whether or not the decedent owns or has tangible possessory right in real property; that theoretically could include leasehold rights, if it were for a term of years. In the present case the Respondent contends that the decedent did not "own" real property in California. The moving party argues that the Decedent owned real property since he held "a mortgage" on several pieces of real property. This assertion by the Petitioner is a gross oversimplification and generalization of the use of the term "mortgage." In her moving papers she characterizes the interest held by the Decedent as a mortgage, citing various case rulings that have held that a "mortgage" is an interest in real property; her analysis is patently flawed and misleading. It is a common place for individuals, lay persons, banks and other institutions to refer an encumbrance on real property as a "mortgage." In California this generally inaccurate. "...the majority of "mortgages" with a different name..." Quoted from an article on Mortgages from [mortgagecalculator.org/mortgage-rates/California.php](http://mortgagecalculator.org/mortgage-rates/California.php).

According to Witkin's 10<sup>th</sup> Summary of California, CEB's Ogden's Revised California Real Property Law and other legal treatises a promissory note secured by deed of trust is not a possessory right or an ownership right in real property; it is merely a secured interest in real property. Promissory notes are intangible personal property; they do not represent an actual titled ownership in realty. A promissory note is acknowledgement of a debt or obligation which encumbers the owner's title to real property; the promissory note is indicia of money due and payable; a promissory note is a negotiable instrument and it is classified as intangible personal property. As "personal property the notes are movable, transportable and transferable; for all purposes under the law they assume the domicile of the holder, which in the present case that would be the State of Arizona – see Estate Moore v. Geisman, Estate of Burnison vs Katz (cited above) and C.C. §946.

True "mortgages" are not commonly used in California, they are not the method of choice in California in secured real property transaction; deeds of trust are by far and away the most commonly utilized. Mortgages involve two parties, the mortgager and the mortgagee. Deeds of trust differ in several ways, chiefly that there are three parties: 1) the trustor, owner and title holder of the property; 2) the trustee, the party charged with enforcing the terms of the note in the event of default on the payments and any other terms of the trust deed which are violated; and 3) the beneficiary, holder of the note and the party to whom the payments are to be made and to which additional obligations may be owed-payment of property taxes, insurance on the property, etc. The beneficiary retains no ownership right per se in the real property; the interest held and retained by the beneficiary is simply the right to receive payments by and pursuant to the terms of the note; his interest in the property is to insure performance of the pledged obligations of the trustor, title holder. The note holder has no rights to occupy the premises, to encumber or transfer any interest in the real property or to the rents and profits therefrom; he merely hold a secured interest in the property to insure that obligation is paid as agreed. The beneficiary's remedy for breach of the agreement is to demand that the trustee sell the property to satisfy and remaining balance on the note.

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Omission of the reverent and essential facts in this matter – At the risk of being redundant the Respondent has maintained from the very onset that the Petitioner did not and has not properly informed the Fresno County Superior Court of the concurrent proceedings being conducted in Arizona Superior Court nor did she inform the court of any proceedings allegedly in being held in a Mexican Court in regard to this Decedent's estate. At the very least her petition should have informed the court of one or both of these matters because the property application (petition) if any, would have been to establish an ancillary proceeding on this matter rather than a "straight up" probate – Decedent was not a resident of California, see Probate Code § 12522. The moving party has admitted or has not denied the fact that there are other proceedings in regard to this matter in Arizona; that the Decedent died in Arizona; she contended that the Decedent was a concurrent resident of Arizona and Mexico at the time of his death in her petition; that the Decedent held property in Mexico; that he left a "Mexican" will; that the Decedent died leaving personal and real property in Arizona; and that he had a Arizona will. All of these facts clearly establish that the Arizona court has assumed primary jurisdiction in this matter and any proceeding in California would necessarily be ancillary in nature; and further that the California Court would be duty bound to abide by and enforce the determinations of the Arizona court as to its findings as to the decedent's last will and testament and other matters as the Arizona court has primary jurisdiction in this matter as the Decedent was domiciled in that state at the time of this death.

What would the Petitioner be thinking when she filed this probate proceeding in California and fail to inform the court of pertinent relevant facts in regard to the other proceedings? There is no question that a California attorney as an officer of the Court, has an absolute duty to be ethical and forthright in her dealings and presentations of matters to the court – Rule of Professional Conduct 5-200 cited above.

Counsel is apprised of the fact that there is a motion for summary judgment scheduled and currently pending to be heard next month in the Arizona probate proceedings. A party in that proceeding is contending that the "Mexican" will is invalid as a matter of law; that the alleged power of attorney appointing the Petitioner on behalf of the alleged Mexican wife is invalid as a matter of law and that he POA limits her representation as to matters in Mexico. If these claims are found by the Arizona Court to be true (not necessarily binding on a California Court) that ruling would be most damaging to the Petitioner in this matter. The motion contends that neither will or power of attorney conform to the laws of the State of Sinaloa, Mexico, the place where the documents that were allegedly written and executed. I cannot imagine that if these documents do not conform to Mexican law that a California court would entertain them as being valid in spite of that fact. The failure of the Petitioner to inform the court of the facts in this matter amounts a serious breach of professional ethics, to his Court, as well as, to the Superior Court of Arizona, see *Griffis v. S.S. Kresge Company* cited above.

The Petitioner's objections are ill-founded and not supported by the holdings in the laws of the State of California or the state of Arizona. A Promissory note is personality; it assumes the domicile of the decedent. The jurisdiction in which the decedent is domiciled has the authority to make findings pertaining to the proper disposition of estate of deceased persons upon which the states' courts have acquired primary jurisdiction; in this case under the laws of the State of Arizona not California. The lack of candor on the part of the Petitioner in this matter is inexcusable; her conduct amounts to a serious breach of her ethical obligation to the courts of both Arizona and the California.

**Please see additional page**



**Further Reply to Objections to Petition for Probate filed by Hilda Garzon-Ayvazian on 08/26/2013** states on 06/16/2011, Robert W. Fansler went to the office of Attorney Jesus Ernesto Cardenas Fonseca, Notario, in Mazatlan, Sinaloa, Mexico to make his last Will and Testament (hereinafter the "Mexican Will"). A Notario is an attorney that is authorized by the state to handle writing wills, real property transactions, powers of attorneys and notarization of documents. No other attorney in Mexico can do so. The last will and testament of 06/16/2011 revoked any prior wills of the Decedent. The Decedent had previously executed a Will (hereinafter the "California Will") in Los Banos, California in 2006. The California Will left his estate to Geraldine Guthrie, his friend, Donna Broussard, his sister, and Barbara Stettner, his daughter that he had given up for adoption when she was a baby almost fifty years ago. The California Will was executed prior to the Decedent's marriage to Ramona Rios Rodriguez in 2009.

The Mexican Will was signed in the presence of the Notario and Sol Jennis Salazar Ortiz, the translator chosen by the Decedent to aid him because he felt that he did not have sufficient knowledge of Spanish legal terms. In the Mexican Will, the Decedent states that he is domiciled in Mazatlan. He also states that his universal heir is his wife Ramona Rios Rodriguez. The Mexican Will was filed in court in Arizona under a formal testacy proceeding but the Court refused to admit it into evidence although it had been duly authenticated according to the Hague Convention Apostille and the Notario/Attorney Cardenas Fonseca testified in court in Arizona on September 2012 regarding the Mexican Will. His testimony, however, was cut short by the court and he was unable to fully give testimony regarding the will.

On 11/13/2012, the Petitioner filed a Notice of Petition for Probate in Mazatlan, Sinaloa, Mexico (hereinafter "Mexican Probate") in the proceedings in the Arizona case. Notice of the case number and the Family Law Court was given to Mr. Droeger, counsel representing Geri, and Ms. Shepherd, counsel representing Stettner. Notice was also given to Donna who was not represented by counsel and the objector. All notices were mailed on 11/09/2012. See attached Exhibit 1, Notice of Probate of Will of Decedent in Mazatlan, Sinaloa, Mexico. No one made an appearance in the Mexican Probate proceedings.

On 03/11/2013, Petitioner filed a Notice of Hearing of the Mexican probate in the Arizona proceedings. The notice specifically stated that the hearing was to determine the validity of the Mexican Will and confirm the heirs of the estate and would take place on 04/09/2013. Notice was once again given to the counsel representing Gerie and counsel representing Stettner. Notice was also given to Donna Broussard who was not represented by counsel and the Objector. All notices were mailed on 03/06/2013. See attached Exhibit 2, Notice of Hearing of Probate of Will of Decedent in Mazatlan, Sinaloa, Mexico. No one made an appearance at the hearing on 04/09/2013 except for Ramona and Abelardo Rios Rodriguez, the Executor named in the Mexican Will. On 03/26/2013, Ms. Shepherd, counsel for Stettner served discovery requests upon Ramona, including a request for copies of all documents filed in the Mexican Probate. See Exhibit 3, Discovery Requests to Ramona Rios Rodriguez, page 6 of 7 lines 1-3.

On 04/09/2013, the Mexican Family Law Court found the Mexican Will was valid, the decedent was domiciled in Mazatlan, Sinaloa, Mexico and Ramona was declared the universal heir of the decedent's estate. The Certified Copy and duly Apostilled Mexican Will and Order for Probate from the Mexican Family Law Court was filed with this Court on 06/21/2013.

**Please see additional page**

The Mexican Will was declared valid by the Mexican Probate Court, therefore it is in accord with the laws of the place where it was executed. Furthermore, it is also executed in accordance with California law. Probate Code Section 6110 provides that a will has to be in writing, signed by the testator and the signing by the testator has to be witnessed by at least two people. The Mexican Will was in writing. It was witnessed by the Attorney/Notario that drafted the will and the interpreter sol Jennis Salazar Ortiz.

The Probate Court in Nogales, Arizona has ruled via Summary Judgment Motion that Stettner was not given notice of the Mexican Probate, refused to give comity to the **final order for probate from Mexico**, and declared the will invalid. Ms. Shepherd, counsel for Stettner requested attorney fees and costs pursuant to her Motion and the court has not ruled on that issue. According to Arizona law, the granting of the Summary Motion is not a final judgment until the issue of the fees is ruled on by the court. When the issue is ruled on by the court or the court certifies the judgment as final, Ramona will timely file her appeal. Therefore, the Summary Judgment order of the Arizona court is not a final order.

**Conclusion:** based on the California Probate Code and Case Law, the Mexican Will must be admitted to probate since the Order admitting the will and holding it valid in Mexico **is a final order and cannot be collaterally attacked** since all interested parties were given notice of the Mexican proceedings and had an opportunity to contest the probate in Mexico but failed to do so. Furthermore, the Mexican court found the decedent to be domiciled in Mexico and California has held that Mexico's judicial system does provide impartial tribunals or procedures compatible with the requirements of due process.

Wherefore, Petitioner requests that this Court enter an order that:

1. The Mexican Will of 06/16/2011 will be given comity and is admitted to probate.
2. Petitioner is Administrator with Will Annexed.
3. California has jurisdiction to hear the Probate Petition.
4. The three Deeds of Trust are an interest in Real Property.
5. For purposes of Administration, the situs of the Deeds of Trust is California where the debtors are subject to suit.
6. Attorney fees and costs.

**Supplemental Information and Argument in Support of the Objections made to the Petition for Probate of "Mexican" Will filed by Attorney G. L. Motsenbocker on 08/27/2013** states Mr. Robert B. Fleming is duly appointed Special Administrator of the Estate of Robert Warren Fansler, deceased, Superior Court of the State of Arizona, County of Santa Cruz, Case No. PB-12-001 and is currently acting in that capacity. He was appointed by the Arizona Superior Court upon the Court's determination that the appointment of a special administrator was in the best interest of the estate and was needful and necessary due to the ongoing conflict and disputed claims among various the parties as to the proper and appropriate personal representative of the Decedent's estate and conflicting testamentary instruments. The Respondent previously submitted copies of the court Order appointing him as Special Administrator by the Santa Cruz County Superior Court, Arizona and a copy of the Letters of Special Administration that were issued by the clerk. Since the date of his appointment he has been acting as and is currently acting on behalf of the Estate. Currently his authority is in full force and effect and it has not been modified or revoked by the Court. He was charged by the court to act as the interim special administrator to hold and preserve the assets of the estate and to do whatever was needful and necessary to protect the estate during the pendency of the other proceedings before the court; those matters included, inter alia, the validity of the decedent's alleged "Mexican" will that was submitted in this matter.

**Dept. 303, 9:00 a.m. Wednesday, September 11, 2013**

On July 31, 2013 the Superior Court of the State of Arizona, County of Santa Cruz, Case No. PB 12-001 the Honorable Judge Anna M. Montoya-Paez ruled on the Motion for Summary Judgment filed on behalf of Barbara Stettner by Attorney Denise R. Sheppard and on the Cross Motion for Summary Judgment filed on behalf of Ramona Rios Rodriguez by Attorney James McMahon and the replies that followed. A certified copy of the court's order after finding and determinations that were made is attached hereto as Exhibit "A" and incorporated by reference as though fully set forth herein. Inter alia, the pertinent findings of Arizona Court and its order, on pages 5 and 6, were as follows: 1 that the Mexican will is invalid; 2 that the Judgment of Mazatlan, Mexico Court is not given full faith and credit; 3 that Rios Ramos is found to be an omitted spouse; and 4 that the appointment of Hilda Garzon-Ayvazian as personal representative is denied.

**Conclusion:** It would seem that all of the points that the petitioner has presented to this court were addressed in the Arizona Court proceedings and that the petitioner had full and ample opportunity plead and argue her case before that court and that the upshot of that proceeding was that the court determined all the questions of law and fact before that court (and also this court) against her client. Given the findings and order of the Arizona court the Petitioner's redress, if any, lies with the Arizona State Supreme Court along with her arguments in regard to the Hague Convention, etc.

As a matter of information Robert B. Fleming, Esq., the Special Administrator of the Arizona matter, is in the process of filing a petition for appointment as special administrator here in California. While he does not agree with the assertions or representations of the petitioner in this matter in regard to the nature of the property rights of the notes and deeds of trust held by the Decedent he is on the opinion that his application for appointment would essential end to the attempts of the Petitioner to circumvent the law and the jurisdiction of California and Arizona courts in this matter.

**9 Pauline Sidam (Estate)**

Case No. 13CEPR00588

Atty Amador, Catherine A (for Kim Marie Gallo – Petitioner – Daughter in Law)

Amended Petition for Probate of Will and for Letters of Administration with Will Annexed; Authorization to Administer Under IAEA  
(Prob. C. 8002, 10450)

<b>DOD: 06/12/2007</b>		<b>KIM MARIE GALLO</b> , daughter in law is petitioner and requests appointment as Administrator with Will annexed without bond.  Full IAEA – o.k.  Will dated: 04/10/1991  Residence: Fresno Publication: The Business Journal  <u>Estimated value of the Estate:</u> Real property <b>\$175,000.00</b>  Probate Referee: Steven Diebert	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <u>Note:</u> The Court will set status hearings as follows. If the appropriate items are filed, the status hearings may be taken off calendar.  • <b>Friday, 01/31/2014 at 9:00a.m. in Dept. 303</b> for the filing of the inventory and appraisal <u>and</u>  • <b>Friday, 11/14/2014 at 9:00a.m. in Dept. 303</b> for the filing of the first account and final distribution.
<b>Cont. from 080713, 082813</b>			
✓	Proof of Holographic Instrument		
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
✓	Notice of Hrg		
✓	Aff.Mail w/		
✓	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
✓	Letters		
✓	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
<b>Reviewed by:</b> LV			
<b>Reviewed on:</b> 09/09/2013			
<b>Updates:</b>			
<b>Recommendation:</b>			
<b>File 9 – Sidam</b>			

Petition for Probate of Will and for Letters of Administration with Will Annexed;  
Authorization to Administer Under IAEA (Prob. C. 8002, 10450)

<b>DOD: 1-27-13</b>		<b>SPECIAL ADMINISTRATION EXPIRES 9-11-13</b>	<b>NEEDS/PROBLEMS/COMMENTS:</b>	
		<b>PUBLIC ADMINISTRATOR</b> is Petitioner and requests appointment as Administrator with Will Annexed with Full IAEA.  Full IAEA – ok  Will dated 9-7-94  Residence: Fresno Publication: Fresno Business Journal  Inventory and Appraisal filed 8-22-13 indicates a total estate value of \$234,418.51 (\$19,418.51 cash plus real property and a vehicle)  Probate Referee: Steven Diebert	<b>Note:</b> The Court will set a status hearing for the filing of the petition for final distribution for: <ul style="list-style-type: none"> <li>Friday 1-9-15</li> </ul>	
	<b>Aff.Sub.Wit.</b>			
✓	<b>Verified</b>			
	<b>Inventory</b>			
	<b>PTC</b>			
	<b>Not.Cred.</b>			
✓	<b>Notice of Hrg</b>			
✓	<b>Aff.Mail</b>			w/o
✓	<b>Aff.Pub.</b>			
	<b>Sp.Ntc.</b>			
	<b>Pers.Serv.</b>			
	<b>Conf. Screen</b>			
✓	<b>Letters</b>			
	<b>Duties/Supp</b>			
	<b>Objections</b>			
	<b>Video Receipt</b>			
	<b>CI Report</b>			
	<b>9202</b>			
✓	<b>Order</b>			
	<b>Aff. Posting</b>			
	<b>Status Rpt</b>			
	<b>UCCJEA</b>			
	<b>Citation</b>			
	<b>FTB Notice</b>			
			<b>Reviewed by:</b> skc	
			<b>Reviewed on:</b> 9-9-13	
			<b>Updates:</b>	
			<b>Recommendation:</b> SUBMITTED	
			<b>File</b> 10 - Ferguson	

11 **Freddie L. Rylee (Estate)**  
 Atty **Flanigan, Philip M. (for Alison Rylee – daughter/Petitioner)**  
 Atty **Krbechek, Randolph (for James Rylee – son/Objector)**

Case No. 13CEPR00680

**Petition for Probate of Will and for Letters Testamentary; Authorization to Administer Under IAEA (Prob. C. 8002, 10450)**

<b>DOD: 07/01/13</b>		<b>ALISON RYLEE</b> , daughter/named Executor with bond set in the amount of \$210,000.00, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
<b>Cont. from</b>		Full IAEA – <b>NEED</b>	
✓	<b>Aff.Sub.Wit.</b>	Will dated 04/07/03	1. The original will has not been deposited with the Court nor was it filed with this Petition for Probate. Need original will.
✓	<b>Verified</b>		2. Need Publication.
	<b>Inventory</b>	Residence: Fresno	3. A Request for Special Notice was filed by R. Michael Devitt on behalf of Barbara Rylee Fisher. Need proof of service of Notice of Petition to Administer Estate with a copy of the Petition for Probate on R. Michael Devitt.
	<b>PTC</b>	Publication: <b>NEED</b>	4. The Objector states that the Decedent died on 07/01/09, but the Petition for Probate indicates the date of death was 07/01/13. Need clarification.
	<b>Not.Cred.</b>		
✓	<b>Notice of Hrg</b>	<b>Estimated Value of the Estate:</b>	
✓	<b>Aff.Mail</b>	Personal property - \$100,000.00	
	<b>Aff.Pub.</b>	Real property - 110,000.00	
	<b>Sp.Ntc.</b>	<b>Total - \$210,000.00</b>	
	<b>Pers.Serv.</b>	Probate Referee: <b>STEVEN DEIBERT</b>	
	<b>Conf. Screen</b>	<b>Objections to Probate of Will</b> filed 08/28/13 by James M. Rylee, son, states: Probate of the Decedent's will should be denied on the following grounds:	
✓	<b>Letters</b>	(a) Respondent has not submitted nor are there any allegations that an original or "duplicate original" of the will presently exists.	
✓	<b>Duties/Supp</b>	(b) Pursuant to Probate Code § 6124, there is a presumption that the testator destroyed the will with the intent to revoke it. This presumption affects the burden of producing evidence.	
✓	<b>Objections</b>	Respondent should not be appointed as Administrator with Will Annexed on the ground that, if the will is not admitted, respondent cannot serve as Administrator with Will annexed, but must proceed under the laws of intestate succession. Contestant prays:	
	<b>Video Receipt</b>	1. That the document be denied probate;	
	<b>CI Report</b>	2. That Respondent Alison Rylee not be appointed as administrator with will annexed; and	
	<b>9202</b>	3. For attorney's fees and costs of suit incurred herein.	
✓	<b>Order</b>		
	<b>Aff. Posting</b>		
	<b>Status Rpt</b>		
	<b>UCCJEA</b>		
	<b>Citation</b>		
	<b>FTB Notice</b>		

**NEEDS/PROBLEMS/COMMENTS:**

1. The original will has not been deposited with the Court nor was it filed with this Petition for Probate. Need original will.
2. Need Publication.
3. A Request for Special Notice was filed by R. Michael Devitt on behalf of Barbara Rylee Fisher. Need proof of service of Notice of Petition to Administer Estate with a copy of the Petition for Probate on R. Michael Devitt.
4. The Objector states that the Decedent died on 07/01/09, but the Petition for Probate indicates the date of death was 07/01/13. Need clarification.

**Notes Re Objection:**

1. Petitioner has not requested to be appointed as Administrator with Will Annexed as alleged in the Objection, she is requesting appointment as Executor.

**Reviewed by:** JF

**Reviewed on:** 09/09/13

**Updates:**

**Recommendation:**

**File 11 - Rylee**

Age: 52		TEMP EXPIRES 9-11-13  <b>PUBLIC GUARDIAN</b> is Petitioner and requests appointment as Conservator of the Estate.  <b>Estimated value of estate:</b> Personal property: \$2,042.00 Annual income: \$33,576.00 (VA)  <b>Petitioner states</b> Conservatorship of the estate is necessary to protect his assets and to utilize his resources for his care and treatment.  <b>Court Investigator Jennifer Young filed a report on 9-4-13.</b>	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <u><b>Court Investigator advised rights on 9-3-13</b></u>	
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
✓	Notice of Hrg			
✓	Aff.Mail			W
	Aff.Pub.			
	Sp.Ntc.			
✓	Pers.Serv.			W
	Conf. Screen			
✓	Letters			
	Duties/Supp			
	Objections			
	Video Receipt			
✓	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
✓	Citation			
	FTB Notice			
			Reviewed by: skc Reviewed on: 9-9-13 Updates: Recommendation: File 12 - Jeffrey	

DOD: 05/29/2013		JOHN JOSEPH WALSH and DAVID THOMAS WALSH nephews/named executors without bond, are petitioners.	NEEDS/PROBLEMS/COMMENTS:
Cont. from		Full IAEA – o.k.	<p><b>Note:</b> If the petition is granted status hearings will be set as follows:</p> <ul style="list-style-type: none"> <li>• Friday, 01/31/2014 at 9:00a.m. in Dept. 303 for the filing of the inventory and appraisal <u>and</u></li> <li>• Friday, 11/14/2014 at 9:00a.m. in Dept. 303 for the filing of the first account and final distribution.</li> </ul> <p>Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.</p>
✓	Aff.Sub.Wit. s/p	Will dated: 04/03/2009	
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.	Residence: Fresno Publication: The Business Journal	
✓	Notice of Hrg		
✓	Aff.Mail w/o	<b>Estimated value of the Estate:</b>	
✓	Aff.Pub.	Personal property - \$5,071.77	
	Sp.Ntc.	Real property - \$103,000.00	
	Pers.Serv.	<b>Total - \$108,071.77</b>	
	Conf. Screen	Probate Referee: Steven Diebert	
✓	Letters		
✓	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			Reviewed by: LV
			Reviewed on: 09/09/2013
			Updates:
			Recommendation: Submitted
			File 13 - Walsh



DOD: 06/03/2013		VERGIE TEAGUE, surviving spouse is petitioner.	NEEDS/PROBLEMS/COMMENTS:
		No other proceedings	
Cont. from		Will dated 08/14/1990 devises entire estate to spouse, Vergie Teague.	
	Aff.Sub.Wit.		
✓	Verified	Petitioner requests Court confirmation that 100% of the property located at 1947 Acacia Ave, Fresno, Ca. pass to the petitioner.	
	Inventory		
	PTC		
	Not.Cred.		
✓	Notice of Hrg		
✓	Aff.Mail		
	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		

Reviewed by: LV  
Reviewed on: 09/09/2013  
Updates:  
Recommendation: SUBMITTED  
File 14 - Teague

<b>Age: 71 years</b>		<b>PUBLIC GUARDIAN</b> was appointed Conservator of the person and estate on 6/5/2007.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
		The Second Account was approved on 7/13/2011 showing an ending property on hand of \$11,408.54.	1. Need current written status report pursuant to Local Rule 7.5 which states in all matters set for status hearing verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.
<b>Cont. from</b>		This status hearing was set for the filing of the Third Account.	
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>		
<input type="checkbox"/>	<b>Verified</b>		
<input type="checkbox"/>	<b>Inventory</b>		
<input type="checkbox"/>	<b>PTC</b>		
<input type="checkbox"/>	<b>Not.Cred.</b>		
<input type="checkbox"/>	<b>Notice of Hrg</b>		
<input type="checkbox"/>	<b>Aff.Mail</b>		
<input type="checkbox"/>	<b>Aff.Pub.</b>		
<input type="checkbox"/>	<b>Sp.Ntc.</b>		
<input type="checkbox"/>	<b>Pers.Serv.</b>		
<input type="checkbox"/>	<b>Conf. Screen</b>		
<input type="checkbox"/>	<b>Letters</b>		
<input type="checkbox"/>	<b>Duties/Supp</b>		
<input type="checkbox"/>	<b>Objections</b>		
<input type="checkbox"/>	<b>Video Receipt</b>		
<input type="checkbox"/>	<b>CI Report</b>		
<input type="checkbox"/>	<b>9202</b>		
<input type="checkbox"/>	<b>Order</b>		
<input type="checkbox"/>	<b>Aff. Posting</b>		
<input type="checkbox"/>	<b>Status Rpt</b>		
<input type="checkbox"/>	<b>UCCJEA</b>		
<input type="checkbox"/>	<b>Citation</b>		
<input type="checkbox"/>	<b>FTB Notice</b>		
<input type="checkbox"/>			
			<b>Reviewed by: KT</b>
			<b>Reviewed on: 9/9/2013</b>
			<b>Updates:</b>
			<b>Recommendation:</b>
			<b>File 15 - Moody</b>

## Petition for Visitation

<b>Age: 7 years</b>		<b>JUAN MORA, father</b> , is petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>	
		<b>EMMA VASQUEZ</b> , maternal great-grandmother, was appointed as guardian on 1/24/2008. – served by mail on 8/12/13.		
<b>Cont. from</b>		Mother: <b>DANIELLE SOLIS</b> – served by mail on 8/12/13.		
	<b>Aff.Sub.Wit.</b>			
✓	<b>Verified</b>	<p><b>Petitioner states</b> the minor deserves to have is father in his life. Petitioner states he currently has no legal rights that allows him to spend quality time with his son. Petitioner states he is a willing and present father and that he sets a good example for the minor. Petitioner states that he has never been unemployed, he is educated and actively involved in his Christian church celebration. The minor has brothers who live with Petitioner and petitioner states he has custody of them. Petitioner states he is married to a supportive and understanding wife. Petitioner states he pays \$400 per month child support and he should be able to spend time with his son in the comfort of his own home.</p> <p>Petitioner states he would like the court to grant him visitation at his home from Friday at 4 p.m. to Sunday at 6 p.m. He would also like to have him over school vacations.</p>		
	<b>Inventory</b>			
	<b>PTC</b>			
	<b>Not.Cred.</b>			
✓	<b>Notice of Hrg</b>			
✓	<b>Aff.Mail</b>			
	<b>Aff.Pub.</b>			
	<b>Sp.Ntc.</b>			
	<b>Pers.Serv.</b>			
	<b>Conf. Screen</b>			
	<b>Letters</b>			
	<b>Duties/Supp</b>			
	<b>Objections</b>			
	<b>Video Receipt</b>			
	<b>CI Report</b>			
	<b>9202</b>			
	<b>Order</b>			X
	<b>Aff. Posting</b>			
	<b>Status Rpt</b>			
	<b>UCCJEA</b>			
	<b>Citation</b>			
	<b>FTB Notice</b>			

Atty Cheek, Tania (Pro Per – Mother)

Atty Mathes, Karen L (for Guardians Terry and Linda Cheek)

## Status of Guardianship

Taylor Age: 10		<p><b>TERRY and LINDA CHEEK</b>, Paternal Grandparents, were appointed as guardians on 12-1-08.</p> <p><b>TANIA CHEEK</b>, Mother, filed a petition for termination of the guardianship, which was denied on 7-24-13.</p> <p><b>At hearing on 7-24-13</b>, the Court referred the case to CPS to check on who is living in the home with the child and its safety. DSS Social Worker Keith Hodge was present in Court. Mr. Hodge was asked to submit a report to the Court and to the other parties. The Court ordered a marginal increase in visitation between the mother and the children and set this status hearing.</p> <p><b>DSS Social Worker Keith Hodge filed a report on 8-27-13.</b></p>	<b>NEEDS/PROBLEMS/COMMENTS:</b>
Byron Age: 7			
Aff.Sub.Wit.			
Verified			
Inventory			
PTC			
Not.Cred.			
Notice of Hrg			
Aff.Mail			
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
		Reviewed by: skc	
		Reviewed on: 9-9-13	
		Updates:	
		Recommendation:	
		File 17 - Cheek	